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**Commerce & Labor Committee**

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**HB 1502**

**Brief Description:** Suppressing workers' compensation claims.

**Sponsors:** Representatives Williams, Conway, Wood, Chase, Moeller and Ormsby.

**Brief Summary of Bill**

- Defines and prohibits the suppression of industrial insurance claims by employers.
- Requires the director of the Department of Labor and Industries (Department) to investigate complaints about claim suppression and grants subpoena authority related to these investigations.
- Grants the director of the Department the authority to waive time limitations for filing an industrial insurance claim in situations where claim suppression is found.

**Hearing Date:** 1/30/07

**Staff:** Sarah Beznoska (786-7109).

**Background:**

Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. Employers who are not self-insured must insure with the state fund operated by the Department of Labor and Industries (Department).

When an accident occurs to a worker, the worker has a duty under the Industrial Insurance Act to report the accident "forthwith" to the employer or supervisor in charge of the work. The employer, in turn, has a duty to report the accident and resulting injury "at once" to the Department if the worker has received medical treatment, has been hospitalized or disabled from work, or has died as the apparent result of the injury. An employer is subject to a penalty of \$250 for failing or refusing to report the accident.

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Workers must also file a claim application with the Department or self-insured employer, together with a certificate of the attending health services provider. The attending provider must inform the worker of his or her rights under the Industrial Insurance Act and assist the worker in filing the claim application. In 2006, the Legislature directed the Department to implement a pilot program in which employers assist workers in filing workers' compensation claims.

## **Summary of Bill:**

### Claim Suppression

Employers are prohibited from engaging in the suppression of industrial insurance claims for their employees. "Claim suppression" is defined as expressly or repeatedly inducing employees to fail to report injuries, inducing employees to treat injuries in the course of employment as off-the-job injuries, or otherwise acting to suppress legitimate industrial insurance claims.

Providing first aid at the worksite is not claim suppression. The Department must adopt rules defining first aid.

To determine whether an employer has engaged in claim suppression, the Department must consider the employer's history of compliance with reporting requirements and whether there are employment-related incentives to discourage employees from reporting injuries or filing claims. The Department has the burden of proving claim suppression by a preponderance of the evidence.

### Penalties

Employers who engage in claim suppression are subject to a penalty ranging from \$250 to \$2,500 for each offense. The Department of Labor and Industries (Department) must adopt rules establishing the amount of penalties, taking into account the size of the employer and whether there are prior findings of claim suppression.

Additional penalties include prohibiting the employer from any current or future participation in a retrospective rating program and withdrawing a self-insured employer's certification as a self-insured employer.

### Investigations and Subpoena Power

The Director of the Department (Director) must investigate reports or complaints that an employer has acted to suppress claims. Any complaint must be received in writing and must include the name or names of the individuals or organizations submitting the complaint. Solely to investigate allegations of claim suppression, the Director is granted the authority to subpoena records from the employer, medical providers, and any other entity that the Director believes may have relevant information.

### Time Limits for Filing Claims

The Director is granted discretionary authority to waive the time limits for filing a claim if the Director determines that an employer has engaged in acts of claim suppression that have caused the worker not to file a timely claim.

**Rules Authority:** The Department of Labor and Industries must adopt rules defining first aid and rules establishing monetary penalties for claim suppression.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.